

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:18-CV-00189-GCM**

JAMES C. MCNEILL,

Plaintiff,

v.

**MICHAEL D. HINSON,
FNU SIMMONS,
WILLIAM HORNE,
FNU KINNEY,
FNU ALLEN,
THOMAS B. TURGEON,**

Defendants.

ORDER

THIS MATTER comes before the Court on Plaintiff's pro se Motion for Sanctions and Request for an Extension of Time (ECF No. 85). In the motion, Plaintiff James McNeill makes various complaints about his treatment by prison officials which are unrelated to the present action. McNeill states that prison officials previously impeded his access to legal materials, but adds that the issue improved after this Court's previous order. *See* ECF No. 82. No further intervention by the Court is warranted, and the motion for sanctions will be denied.¹

The Court now turns to McNeill's claim that prison officials failed to send a request for subpoenas for trial witnesses. Trial is now a month away, and the Court is disinclined to continue it once again. Instead, a telephonic hearing will be convened for McNeill to make his requests for subpoenas. In order for the Court to issue subpoenas, the Plaintiff must (1) provide adequate

¹ To that extent that McNeill seeks additional time to respond to Defendants' motion in limine, it will be denied. McNeill will have the opportunity to argue the motion in person before the trial begins.

information about each witness, such that the Court may conclude that the subpoenas are being issued for relevant and permissible purposes; (2) identify those witnesses by name and address so that they can be located and served; and (3) demonstrate that he can pay the costs of securing those witnesses' attendance at trial. *See* Fed. R. Civ. P. 45(b)(1) (requiring fees and mileage for the issuance of subpoenas); 28 U.S.C. § 1821(f) (witness fees do not apply to incarcerated witnesses); *Pickens v. Lewis*, No. 1:15-cv-275-FDW, 2017 WL 2198342, at *2 (W.D.N.C. May 18, 2017) ("Ordinarily, the plaintiff must bear the costs of his litigation . . . even in pro se cases.").

IT IS THEREFORE ORDERED that:

1. The Motion for Sanctions and Request for an Extension of Time (ECF No. 85) is **DENIED**.
2. The Clerk shall **CALENDAR A TELEPHONIC HEARING** for December 29, 2021, at 2 pm.
3. Defendants shall **MAKE ALL NECESSARY ARRANGEMENTS** for Plaintiff to be present at the telephonic hearing.

SO ORDERED.

Signed: December 14, 2021



Graham C. Mullen
United States District Judge

